IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

APPEAL FROM ORDER NO. 1133 OF 2004

Melque Soloman. ... Appellant.
Versus.
Municipal Corporation of Gr.Mumbai
and another. ... Respondents.

Shri B.Unnikrishnan for the Appellant.

Ms.Geeta Joglekar for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 4th March, 2005.

P.C.:

1. The learned Advocate for the Appellant has tendered affidavit-cum-undertaking of the Appellant which is taken on record and marked "X" for identification. He has stated that in the said affidavit as under:

(1) I hereby give an undertaking to this Hon'ble Court that I will be submitting a proposal for regularisation of the suit structure described in the suit notice bearing No.HW/BF/III/351/428 of 1999-2000 dated 15.11.1999 issued under section 351 of the Mumbai Municipal Corporation Act within 5 weeks from today to the Bombay Municipal Corporation. I also request this Hon'ble Court to continue the order of status-quo granted by this Hon'ble Court on 29th of December 2004 for a period of two weeks after

the decision of the proposal for regularisation is communicated to this Appellant by Bombay Municipal Corporation.

(2) In view of the above, I hereby withdraw the present Appeal and I also be allowed to withdraw the pending L.C.Suit No.1035 of 2000 filed by me in the Hon'ble City Civil Court against the Bombay Municipal Corporation.

In view of the above undertaking, which is accepted, the following order is passed.

(i) L.C.Suit No.1035 of 2000 as well as this Appeal from Order are dismissed as withdrawn with no order as to costs.

(ii) If appropriate application in proper form is made by the Appellant within a period of five weeks from today to the appropriate authority/department of the Respondent No.1-Corporation for regularisation of the suit structure described in Notice dated 15th November 1999, the same shall be considered and decided by the Appropriate authority of Respondent No.1-Corporation within a period of 8 weeks from the date of receipt of the

application. The said Application will be decided on its own merits in accordance with the law.

(iii) If the application is made within a period of five weeks from today, the structure in dispute shall not be demolished by the Respondent No.1-Corporation for a period of 18 weeks from today. If the application is not made within the stipulated period of five weeks, it will be open for the Respondent No.1 to carry out action of demolition.

(iv) The learned trial Judge will pass a formal order in the suit on production of an authenticated copy of this order.

(v) There will be no order as to costs.

(vi) The parties and the concerned Court to act on an authenticated copy of this order.

Judge.